

 WARWICKSHIRE POLICE		POLICY
Security Classification	Official	
Disclosable under Freedom of Information Act 2000	YES	

POLICY TITLE	Right Care Right Person – Crisis Incidents in Private Premises and Mental Health Welfare Checks
REFERENCE NUMBER	WP212
Version	1.2

POLICY OWNERSHIP	
DIRECTORATE	Local Policing
BUSINESS AREA	Public Contact

INITIAL IMPLEMENTATION DATE	22/08/2024
NEXT REVIEW DATE:	22/08/2026
RISK RATING	MEDIUM
EQUALITY ANALYSIS	MEDIUM
TIER	1

Warwickshire Police welcome comments and suggestions from the public and staff about the contents and implementation of this policy. Please e-mail policiesandprocedures@warwickshire.police.uk

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1.0 POLICY OUTLINE

- 1.1 The intention of the policy to communicate clear guidelines around the Warwickshire police response to crisis incidents in private premises and mental health welfare checks.
- 1.2 This policy has been created in response to the national roll-out of 'Right Care, Right Person' (RCRP), which is an initiative that was developed by Humberside Police, prior to a phased implementation between May 2020 and November 2021. Further guidance around the implementation of RCRP can be found on the College of Policing [website](#).
- 1.3 The intention of the policy is to ensure the following.
 - a. Ensure the safety, the dignity and the rights of the public are placed at forefront of all Warwickshire Police decisions on policing and mental health.
 - b. Ensure collaborative partnerships operate effectively.
 - c. Ensure deployments to support MHA Assessments are timely, proportionate, necessary and lawful.
 - d. Ensure Warwickshire Police fulfils its responsibilities under the Mental Health Act 1983 and its Code of Practice.
 - e. Ensure Warwickshire Police is not operating beyond its legal authority.
 - f. Ensure Warwickshire Police officers are not operating beyond professional competence.
- 1.4 The policy has been developed to be consistent with the policies being implemented by West Midlands Police. The purpose of this alignment of policy is because Warwickshire police and part of West Midlands police are covered by the Coventry and Warwickshire Integrated Care Board (ICB), therefore there is an overlap in force coverage of this ICB area. By having an aligned response, this ensures that there is a consistent process for all relevant partners, which should allow for a more effective provision of service.
- 1.5 Failure to comply with policy may result in disciplinary action for staff as well as legal consequences for the force.

2.0 PURPOSE OF POLICY

- 2.1 The purpose of this policy is ensure that Warwickshire police have a clear understanding around their obligations and responsibilities in relation responding to . crisis incidents in private premises and mental health welfare checks.

This is consistent with the principles of RCRP, which is built around policing's core duties.

- Protect life and property
- Preserve order
- Prevent the commission of offences.

3.0 IMPLICATIONS of the POLICY

- 3.1 Consideration has been given to the implications surrounding the implementation of this policy.

The legality of this policy has been reviewed, at a national level by King's Counsel (KC) and the relevant legal guidance has been provided to forces. This ensures that the implementation is consistent with these legal principles and takes full account of Human Rights considerations, specifically around Article 2 (right to life) and Article 3 (prohibition of torture and inhuman or degrading treatment or punishment).

The policy is also consistent and supportive of the Codes of Ethics in relation to Authority, Respect and Courtesy as adherence to this policy will ensure the lawful and proportionate use of police powers.

Additionally, this policy has been completed in support of the Equality and Diversity element of the Code of Ethics, specifically around the fair and non-discriminatory way in which it is applied.

- 3.2 Relevant staff with the Operational Control Centre (OCC), and wider, where required, will receive training in relation to the implementation and ongoing adherence to this policy. Training materials have been provided centrally via the College of Policing to assist in this.
- 3.3 As will be discussed later in this policy, key partners have been widely consulted in the creation of this policy and have had opportunity to provide relevant feedback. There is clearly the potential for this to create additional demand for partners, however the key principle of the policy, and RCRP, is to ensure that the most appropriate agency is involved and provides the right care.

4.0 PROCEDURE

4.1 The below records the procedures in the event that Warwickshire police are called to assist with crisis incidents in private premises and mental health welfare checks.

4.2 Initial Police Considerations

Warwickshire police has a responsibility to protect life, in accordance with law – where concerns exist for someone's welfare arising from their mental health, officers have legal powers to support safeguarding attempts for the purpose of saving life or limb or to prevent a Breach of the Peace which the officer reasonably anticipates will occur imminently. The police service is under a duty to mitigate risks and threats to life where the criteria in the case of *Osman v UK* and / or *Syed v DPP* are satisfied.

Warwickshire police will respond in the following circumstances.

- Where there is a risk to life (see *Osman / Syed*), Warwickshire police will despatch police officers to attend locations and take reasonable and lawful steps to mitigate that risk, using available powers.
- Where there is a less immediate or imminent threat, but where a Breach of the Peace is anticipated, Warwickshire police will agree to despatch officers in support of other agencies to mitigate the risk of that breach. Responsibility for clinical assessment remains with the caller.
- Where there is no threat to life and no anticipated Breach of the Peace, then that individual should be assessed by appropriate healthcare professionals in order that the person is not frightened or stigmatised by the unnecessary presence of the police.
- In a situation where Warwickshire police officers are present at an incident where the safety and wellbeing of an individual are in doubt, they will restrict themselves to matters within their competence:
- This will include and will be limited to: confirmation of the person's presence; any immediate threats to life and limb (and officers will act to mitigate them); and any assessment of whether police powers could or should be lawfully applied (i.e., [S136 Mental Health Act \(MHA\) 1983](#), criminal or common law, or intervention under the [Mental Capacity Act 2005](#)).

No confirmation can or will be given of whether someone is 'safe' and 'well', in this context because of the inherent unreliability of assessments by officers who have coercive authority due to their position of authority.

Breach of the Peace

A breach of the peace occurs where –

“Harm is done or likely to be done to a person or, in their presence, to their property; or puts that person in fear of such harm being done through an assault, affray, a riot, unlawful assembly or other disturbance.”

The definition is contained in the leading case of *R v Howell* [1982] QB 416.

Any action taken by police officers to use or to threaten the use of legal powers needs to be justified in law. As such, information supplied by callers and other agencies is a crucial part of any assessment of the proportionality and lawfulness of officers' action.

Any necessary justification for police intervention (or lack of) will need to make express reference to the threat (and risk assessment) arising from information supplied to Warwickshire police in 999 calls, or any other communications.

4.3 **OCC**

Upon receipt of a request to undertake a welfare (or 'safe and well') check which centres on concerns about someone's mental health, the following questions need to be considered as part of the THRIVE+ assessment:

- ***Is this assessed to be a 'life and limb' situation?*** – there is a duty on the police service to protect life, but no obligation upon the service to undertake welfare checks outside of this obligation. Police officers and staff will most usually lack the required competence to assess safety and wellbeing in a meaningful or clinical way. Therefore deploying officers could place them in a difficult position, which may be beyond their authority and competence.
- ***Is the location of the person known?*** – this question is necessary to ensure we prevent confusion between a welfare check, a missing person and what is being asked of the officer.
- ***Are we being asked to support other agencies, or provide cover for them?*** – nothing prevents the police attending in support of other professionals where this is genuinely necessary to prevent a Breach of the Peace. The likelihood of such a Breach must be objectively assessed on the balance of probabilities (i.e. more likely to occur than not).

Appropriate Response

Once the above information has been established, as fully as is practicable, the following three options are available.

- ***Where the location of a person is not known*** – and there is a concern for welfare, refer to Force Policy on Missing People including where the person is absent without leave (AWOL) under the Mental Health Act.
- ***Where the location of the person is known*** – and it is accepted there is a threat to life and limb (the *Osman* / *Syed* cases), police officers must be despatched as they may be able to exercise powers to force entry and take urgent action to safeguard the person or mitigate the risk.

- ***Where there is no evidence of such risks*** – this presents difficulties, if officers are asked to give assurances concerning safety and wellbeing. As such, where other organisations make such requests and there is no indication of a risk to life, these requests should be declined and the requesting organisation advised to resolve this in another, more appropriate way.

Neither Warwickshire OCC staff or Warwickshire police officers should give an assurance to another agency that someone is 'safe and well' arising from concerns about that person's mental health. This is for reasons below.

- ***We do not have the training or authority to determine this*** – mental health assessment is not a role for police officers and past events show the presence of police officers may have an unintended effect on an individual and can lead to unreliable conclusions being drawn about safety and wellbeing. This may be despite the officers' best efforts to be supportive and helpful.
- ***We may only confirm*** - the person's location, whether there is any obvious concern for serious illness or injury (in which case, an ambulance should be called) and inform the caller of this, where justified. Further assessment of safety and wellbeing where there is no on-going threat to life and limb is a matter for the ambulance service, a GP or a mental health service and referrals to the appropriate agency should be (urgently) made, if necessary.

It must be noted that the Force Incident Manager (FIM) will be responsible for making the final decision, related to deployment, if concerns are raised (by partners or others) around any decision not to respond to this call for service. Any decisions should be rationalised and recorded appropriately

4.4 **Operational Officers**

Warwickshire police will only deploy officers to welfare checks connected to someone's mental health if the issue involves a threat to life or limb; OR where officers are acting in support of other agencies to undertake statutory functions or prevent a breach of the peace. Officers may also find themselves at other incidents which involve mental health crisis issues in private premises where S136 MHA 1983 cannot be used.

Contrary to public perception, police officers cannot give an informed or reliable assessment to others regarding someone's safety and wellbeing where those concerns arise from their mental health. **It is vital police officers do not over-reach their competence and legal authority by giving such assurances.** Past events have shown that the involvement of the police can have unintended or unforeseen consequences despite officers trying their diligent and professional best to support vulnerable people and work collaboratively.

Where deployed to a welfare check or 999 calls because of an imminent threat to life and limb, officers may consider the relevance of the following legal powers:

- [Section 17\(1\)\(e\) PACE 1984](#) – power to force entry to save life and limb where there are reasonable grounds to believe the person is on the premises.

Once upon premises, officers should consider should these powers in the following order:

1. [Sections 5/6 Mental Capacity Act 2005](#) – have you found a life-threatening or life-altering situation which is already deteriorating or likely to do so in respect of an adult who lacks capacity to take decisions? If so, call an ambulance and act accordingly to protect life.
2. [Section 46 Children's Act 1989](#) – if similar concerns exist for children: consider taking the child into police protection.
3. Criminal or Common Law – if the above powers do not apply and there are attempted or substantive offences involved, consider criminal law or Breach of the Peace powers to prevent offences and harm. Remove to police custody unless A&E is required for urgent medical reasons (an ambulance should be used to transport).
4. [Mental Health Act 1983](#) – officers have no powers under the MHA in private premises where someone lives. If section 136 cannot be lawfully applied because of the location in which someone is found, officers must form a view on whether they would consider making use of S136 had the person had been found outside a dwelling, as this information could be used to help brief mental health professionals in consideration of obtaining a warrant under S135.

In triage hours, advice should be sought from the Mental Health Triage car as they will have access to mental health professionals who can provide tactical advice in these matters and will potentially deploy to the location.

4.6 **Supervisors**

Where officers attend welfare checks or mental health crisis incidents in people's homes, they may have legal authority to keep someone safe from imminent harm but officers do not always have powers to act where non-imminent, non-life threatening vulnerabilities exist. Liaison with other agencies may be necessary in order to allow professionals with other legal powers and skills to safeguard people in the least restrictive or lawfully appropriate way.

Officers should seek advice from the Mental Health Triage, who can provide tactical advice, if available.

The following points will be relevant to any supervisor assessments, ahead of any decision to withdraw officers from a situation where they have done all they legally can, but where concerns may remain for someone's welfare:

- [Section 13 MHA 1983](#) – if a Local Authority has reason to think that an application for admission to hospital "may need to be made", they have a duty to ensure arrangements are in place to allow for this. It may take time, but is an available tactical option.

- [Section 136 MHA 1983](#) – officers in this situation are asked to decide whether they would consider use of S136 MHA 1983, had it been lawful to do so. This view may influence Approved Mental Health Professional (AMHP) decisions under [S13 MHA 1983](#).
- [The Sessay Case \(2011\)](#) – this case in the High Court involved police officers improvising their way through a mental health crisis incident in private premises by attempting to rely on the Mental Capacity Act (MCA) 2005 to justify removal to hospital. The court ruled the MCA cannot be used to remove someone from their home where this is solely for the purposes of MHA assessment, as if the person had been detained under S135 or S136 MHA 1983.
- [Section 4 MHA 1983 & Section 135\(1\) MHA 1983](#) – Sessay reminded us that Local Authorities have responsibilities to ensure AMHPs are available to undertake MHA assessments where required and this may include urgent assessment for admission under S4, from time to time; OR they may secure a warrant from a Magistrate under s135(1) to remove someone to a place of safety.

Any referral to an AMHP service, via a mental health triage or via EDT / Crisis Team requires a decision from that agency about whether they accept the need to undertake a MHA assessment or whether they are declining to do so and advising any another action.

All details concerning these events should be documented on the incident log, along with the decision-maker's name and professional position. It may not always be possible to protect against all potential risks by lawful means and on occasion Coroners Courts and the IOPC have accepted this, following investigations.

A key issue for officers will be that their conduct is defensible, clear and that they have documented any decision-making according to the NDM and in light of the available information and in accordance with relevant legal powers.

4.5 ***Please state which head of department or chief officer has been consulted in the development of this policy:***

<i>Head of Dep't/ Chief Officer Consulted</i>	<i>Date Communication Sent</i>
<i>C/Supt Mike Smith</i>	<i>22/12/2023</i>

5.0 DOCUMENT HISTORY

The history and rationale for change to policy will be recorded using the below chart: If you are using this template for a review of a harmonised policy **you must** state in the amendment(s) section what you have changed and complete a Summary of Change form, (please request from Policy Team).

Date	Author / Reviewer	Amendment(s) & Rationale	Date of Approval / Adoption
22/12/2023	DCI Martyn Kendall	New Policy	
12/01/2024	DCI Martyn Kendall	Amendments made after proof reading. Clarification given around FIM being the final decision maker.	August 2024

6.0 CONSULTATION

- 6.1 This policy has been created in consultation with a number of stakeholders. Consultation has taken place with West Midlands police, due to Coventry and Warwickshire ICB cover both force areas, in order to ensure a consistent approach is taken.

Coventry and Warwickshire ICB have been widely consulted, along with representatives from regional hospitals. Warwickshire County Council have also been consulted from a social care perspective.

This policy has also been consulted on with other ICB's within the West Midlands police force area, as part of a consistent and partnership led implementation across the Warwickshire and West Midlands force areas.

7.0 ASSESSMENT AND ANALYSIS

(the relevant EA, HAS and RA are being completed)

- 7.1 Every policy and procedure will be subject of an Equality Analysis (EA), Health and Safety Assessment (HAS) and Risk Assessment (RA) to be completed by the policy writer, and will be referred to if requested by the reader. There is a separate template for this purpose available in the Policy Writers' Pack in the force document search page.
- 7.2 **It is compulsory to consult with, and receive a response from Risk Management, Health & Safety and Equality & Diversity as part of the Assessment form to be completed and also your Business Lead on every policy**